

**JOINT POWERS AGREEMENT FOR
THOMPSON AVENUE (CR 6) TRAFFIC STUDY**

**BETWEEN
THE COUNTY OF DAKOTA
AND
THE CITY OF WEST ST. PAUL
FOR
COUNTY PROJECT NO. 06-10
CITY PROJECT NO. 20-8**

SYNOPSIS: *Dakota County and the City of West St. Paul agree to conduct a traffic study along Thompson Ave. (CR 6) from Robert Street (TH 952) to USH 52 to understand impact of planned development and assess long term corridor needs.*

THIS AGREEMENT, made and entered into by and between the County of Dakota, referred to in this Agreement as "the County"; and the City of West St. Paul, referred to in this Agreement as "the City"; and witnesses the following:

WHEREAS, under MINNESOTA STATUTES §§ 162.17, subd. 1 and 471.59, subd. 1, two or more governmental units may enter into an agreement to cooperatively exercise any power common to the contracting parties, and one of the participating governmental units may exercise one of its powers on behalf of the other governmental units; and

WHEREAS, it is considered mutually desirable to conduct a traffic study to understand impact of planned development and assess long term corridor needs along CR 6, Thompson Ave. in West St. Paul, Dakota County (the "Project"); and

WHEREAS, the County and the City have mutually agreed to the benefit of the study and jointly participate in the costs of the study.

NOW, THEREFORE, it is agreed that the County and the City will share study responsibilities and jointly participate in the costs associated with the study, and related activities as described in the following sections:

1. Engineering. Engineering including all aspects of the Project including evaluation, data collection and project involvement as outlined in the study proposal.
2. Cost Sharing – The County will be 55% of the study cost and city will pay 45% consistent with the transportation plan. The cost is anticipated to be 18,330 based on the selected consultant's proposal. City and county staff time will be the responsibility of the respective agency.
3. Payment. The County will administer the contract with the consultant for the study and act as the paying agent for all payments to the consultant. Payments to the consultant will be made as the Project work progresses and when certified by the County Engineer. The County, in turn, will bill the City for its share of the Project costs. Upon presentation of an itemized claim by one agency to the other, the receiving agency shall reimburse the invoicing agency for its share of the costs incurred under this Agreement within 35 days from the presentation of the claim. If any portion of an itemized claim is questioned by the receiving agency, the remainder

of the claim shall be promptly paid, and accompanied by a written explanation of the amounts in question. Payment of any amounts in dispute will be made following good faith negotiation and documentation of actual costs incurred in carrying out the work.

4. Change Orders and Supplemental Agreements. Any change orders or supplemental agreements that affect the Project cost participation must be approved by all parties prior to execution of work.

5. Amendments. Any amendments to this Agreement will be effective only after approval by both governing bodies and execution of a written amendment document by duly authorized officials of each body.

6. Effective Dates. This Agreement will be effective upon execution by duly authorized officials of each governing body and shall continue in effect until all work to be carried out in accordance with this Agreement has been completed. Absent an amendment, however, in no event will this Agreement continue in effect after September 30, 2018.

7. Final completion. Final completion of the construction Project must be approved by both parties.

8. Pavement Maintenance. Upon acceptance of the Project, the City shall be responsible for all pavement maintenance within City right-of-way and the County shall be responsible for all pavement maintenance within County right-of-way unless necessitated by a failure of a municipal utility system or installation of new facilities.

9. Subsequent Excavation. After completion of the Project, and after expiration of the warranty period regarding repair, if excavation within County right-of-way is necessary to repair or install water, sewer, or other city utilities, the City shall restore the excavated area and road surface to substantially the condition at the time of disturbance. If the City employs its own contractor for the above described water, sewer or other utility repair or installation, the City shall hold the County harmless from any and all liability incurred due to the repair or installation of said water, sewer or other municipal utility including, but not limited to, the costs of repair as well as liability to third parties injured or damaged as a result of the work. If the City fails to have the highway properly restored, the County Engineer may have the work done and the City shall pay for the work within 30 days following receipt of a written claim by the County.

10. Rules and Regulations. The County and the City shall abide by Minnesota Department of Transportation standard specifications, rules and contract administration procedures.

11. Indemnification. The County agrees to defend, indemnify, and hold harmless the City against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of the County and/or those of County employees or agents. The City agrees to defend, indemnify, and hold harmless the County against any and all claims, liability, loss, damage, or expense arising under the provisions of this Agreement and caused by or resulting from negligent acts or omissions of the City and/or those of City employees or agents. All parties to this Agreement recognize that liability for any claims arising under this Agreement are subject to the provisions of the Minnesota Municipal Tort Claims Law; Minnesota Statutes, Chapter 466. In the event of any claims or actions filed against either party, nothing in this Agreement shall be construed to allow a claimant to obtain separate judgments or separate liability caps from the individual parties. The County shall include the City as additional insured in the contract documents.

12. Employees of Parties. Any and all persons engaged in the work to be performed by the County shall not be considered employees of the City, for any purpose, including Worker's Compensation, and any and all claims that may or might arise out of said employment context on behalf of said employees while so engaged, and any and all claims made by any third party as a consequence of any act or omission on the part of said employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of the City. Any and all persons engaged in the work to be performed by the City shall not be considered employees of the County for any purpose, including Worker's Compensation, and any and all claims that may or might arise out of said employment context on behalf of said employee while so engaged. Any and all claims made by any third party as a consequence of any act or omissions of the part of the City's employees while so engaged on any of the work contemplated herein shall not be the obligation or responsibility of the County.

13. Audits. Pursuant to Minnesota Statutes Sec 16 C. 05, Subd. 5, any books, records, documents, and accounting procedures and practices of the County and the City relevant to the Agreement are subject to examination by the County or the City and either the Legislative Auditor or the State Auditor as appropriate. The County and the City agree to maintain these

records for a period of six years from the date of performance of all services covered under this Agreement. Dakota County will be financially responsible for the cost of the audit.

14. Integration and Continuing Effect. The entire and integrated agreement of the parties contained in this Agreement shall supersede all prior negotiations, representations or agreements between the County and the City regarding the Project; whether written or oral. All agreements for future maintenance or cost responsibilities (Traffic Signal Agreement 91-08) shall survive and continue in full force and effect in accordance with the Dakota County Transportation Plan after completion of the construction provided for in this Agreement.

15. Authorized Representatives. The authorized representatives for the purpose of the administration of this Agreement are:

Mark Krebsbach (or successor)

Dakota County Transportation Director/County
Engineer

14955 Galaxie Avenue
Apple Valley, MN. 55124
(952) 891-7102

Ross Beckwith

Public Works Director/City Engineer
City of West St. Paul

1616 Humboldt Avenue
West St. Paul, MN 55122
(651) 552-4130

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS THEREOF, the parties have caused this agreement to be executed by their duly authorized officials.

CITY OF WEST ST. PAUL

RECOMMENDED FOR APPROVAL:

Public Works Director/City Engineer

By _____
Mayor

APPROVED AS TO FORM:

(SEAL)

City Attorney

By _____
City Clerk

Date _____

DAKOTA COUNTY

RECOMMENDED FOR APPROVAL:

APPROVED AS TO FORM:

County Engineer

Assistant County Attorney / Date

By: _____
Physical Development Director

COUNTY BOARD RESOLUTION:

No: 19-793 Date: October 29, 2019

Date: _____

KS-_____